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STATE CORPORATION COMMISSION

Division of Information Resources

June 5, 2020

MEMORANDUM

TO: Document Control Center
Clerk's Office

FROM: Ken Schrad

RE: PUR-2020-00048

I have attached a comment document with five attachments submitted by the organization Vote Solar. I received the email at 4:57 p.m., on Friday afternoon, June 5, 2020.

The organization's Southeast Regulatory Director Odette Mucha did use the online public comment feature on the SCC website on Friday to provide introductory comments. In that electronic comment submission, there is a reference to the attached 98 pages of information that could not be accommodated by that particular website portal.

I ask that you pass this correspondence to the referenced case file.

PUR-2020-00048
Ex Parte: Temporary Suspension of Tariff

Attachment –

- Comments of Vote Solar
- Attachments A, B, C, D and E

200630002

BEFORE THE
COMMONWEALTH OF VIRGINIA STATE CORPORATION COMMISSION

DOCKET NO. PUR-2020-00048

IN RE: SCC Ex Parte: Temporary Suspension of Utility Service Disconnections	))))	**VOTE SOLAR'S COMMENTS ON TEMPORARY SUSPENSION OF UTILITY SERVICE DISCONNECTIONS**

Pursuant to the Virginia State Corporation Commission ("Commission") case number PUR-2020-00048, Vote Solar[1] appreciates the opportunity to submit these comments in response to the *Order Seeking Comment On Suspension Of Service Disconnections* ("Order"). Vote Solar commends the Commission's leadership in asking all parties to provide input and ideas to meet this historic challenge. Vote Solar responds to the Commission's questions below, and generally makes the following recommendations:

- First, extend the disconnection moratorium through at least **October 31, 2020**, and create a **six-month repayment grace-period** through April 30, 2021 with no late fees, penalties, and collection-related charges during that time;
- Second, frame a **balanced response toward utility cost recovery** that offsets incremental Covid costs with identifiable savings;
- Third, direct utilities to **collect and publish relevant arrearage and disconnection data** now and on an ongoing basis to provide transparency and inform future policy decisions;
- Fourth, explore interim pathways for **arrearage forgiveness**, including creative solutions that provide debt relief as an incentive for EE/DSM participation; and

[1] Vote Solar is a non-profit, grassroots organization that works to foster economic opportunity, promote energy independence for consumers, and address environmental concerns by making solar generation accessible and cost-effective for all Americans.

- Lastly, initiate a proceeding addressing **structural issues of affordability** and explore innovative customer programs as part of long-term solutions.

We offer the following comments on the Commission's specific questions.

1. Should the mandatory moratorium on utility service disconnections currently in place be extended beyond June 15, 2020? If so, for how long?

Yes, the mandatory moratorium on utility service disconnections should be extended to October 31, 2020, followed by an additional six-month repayment grace period. We note that this timeline is similar to that set out by Dominion Energy Virginia in their comments in this proceeding.

Working families in Virginia need support in this unprecedented time. Since March, 725,000 Virginia workers have applied for unemployment insurance,[2] and these numbers may not count self-employed workers[3] or those who tried to apply, but could not. As a result, only 29% of unemployed Americans received benefits in March,[4] and in April 53% of low-income households reported that they would be unable to pay their bills.[5] Families struggle with economic displacement while sheltering in place. Utility bills, which average $328 per month in Virginia, will continue to come due, and in just four months a household could rack up $1,312 in debt.[6]

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[2] Bureau of Labor Statistics. Unemployment Insurance Weekly Claims Data. https://oui.doleta.gov/unemploy/wkclaims/report.asp

[3] Andrew Garin and Dmitri Koustas. Relief for Self-Employed Workers: Why the Hold Up and How to Fix it. Becker Friedman Institute. https://bfi.uchicago.edu/wp-content/uploads/BFI_White-Paper_Koustas_4.2020.pdf.

[4] Pew Research Center. "Not all unemployed people get unemployment benefits; in some states, very few do." https://www.pewresearch.org/fact-tank/2020/04/24/not-all-unemployed-people-get-unemployment-benefits-in-some-states-very-few-do/.

[5] Pew Research Center. "About Half of Lower-Income Americans Report Household Job or Wage Loss Due to COVID-19." https://www.pewsocialtrends.org/2020/04/21/about-half-of-lower-income-americans-report-household-job-or-wage-loss-due-to-covid-19/.

[6] Vote Solar. *COVID-19 and the Utility Bill Debt Crisis.* Votesolar.org/debt

Even in the best of times, Virginians struggle to pay energy bills and suffer from a high energy burden. In 2019, over 168,000 Virginians paid more than 30% of their income towards their home energy bills. In that same year, the main source of energy assistance funding, Low-Income Home Energy Assistance Program (LIHEAP), supported nearly 83,000 households, but that was a mere 14% of eligible homes.[7]

Unfortunately, recovery from the economic crisis is not likely to happen quickly. Experts at Goldman Sachs, JP Morgan, and Bank of America estimate unemployment in the second quarter of 2020 to be between 15 and 20%, and it is difficult to predict how long the downturn will last.[8] For each month that Virginia is in recovery, economically disrupted households across the Commonwealth could theoretically face as much as $135 million in debt to their utility companies. Between March and June, household debt to utilities could theoretically reach as much as $538 million—over half a billion dollars.[9] Accurate and frequent reporting on the state of arrearages is critical to give the Commission and stakeholders a line of sight on the actual breadth and depth of the ratepayer debt crisis.

The circumstances that justified the Commission's initial moratorium will persist into the foreseeable future and many households will continue to struggle to pay monthly bills. All of this suggests that an unprecedented and unacceptable number of disconnections could be imminent in the coming weeks and months.

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[7] Home energy affordability gap http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html

[8] US Senate Joint Economic Committee. Automatic Support for Americans during the Coronavirus Crisis. https://www.jec.senate.gov/public/_cache/files/6d1567b9-c5df-45e8-8b6f-26596cc253c3/automatic-support-during-the-coronavirus-crisis-final.pdf.

[9] *Utility Bill Debt Crisis* (Vote Solar).

This is especially concerning as we enter what is expected to be a historically hot summer season.[10] Last year, Virginia saw over 1,000 people admitted to emergency rooms for heat-related illnesses in July alone.[11] And this year, we can only expect more cases as the pandemic may force traditional cooling centers such as community centers and public libraries to remain closed. It is essential to public safety that people have the option to stay in homes that are sufficiently cooled.

Even with the gradual lifting of stay-at-home orders in Virginia, the Commonwealth's economic recovery will likely be tied to consumer confidence and all indicators point to significant challenges to a rapid rebound. Indeed, as recently discussed by Chair of the Federal Reserve on the news program *60 Minutes*, it is likely that the economic damage from Covid-19 will linger deep into 2021 and that consumer confidence could falter until such time as there is a vaccine available or a credible treatment available and affordable on the mass market.[12] While Virginia has begun the process of reopening the economy, it cannot and will not return to "normal" overnight.[13]

Vote Solar urges the Commission to use its authority to **extend the moratorium on disconnections through at least October 31, 2020.** This timeline would ensure the most vulnerable customers are able to cool their homes during the dangerous summer heat. Importantly, it would also align with the start of the Federal fiscal year (October 1), which brings

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[10] Thomas Frank, E&E News, *"2020 on Track to Rank in the Top 5 Hottest Years on Record," available at* https://www.scientificamerican.com/article/2020-on-track-to-rank-in-the-top-5-hottest-years-on-record/.

[11] Data from the Virginia Department of Health, referenced by NBC: https://www.nbc12.com/2019/07/19/beat-heat-cooling-centers-open-throughout-central-va/

[12] *See* Full Transcript: *Fed Chair Jerome Powell's 60 Minutes Interview on Economic Recovery from the Coronavirus Pandemic* (May 17, 2010), *available at* https://www.cbsnews.com/news/full-transcript-fed-chair-jerome-powell-60-minutes-interview-economic-recovery-from-coronavirus-pandemic/.

[13] Thomas Frank, E&E News, *"2020 on Track to Rank in the Top 5 Hottest Years on Record," available at* https://www.scientificamerican.com/article/2020-on-track-to-rank-in-the-top-5-hottest-years-on-record/.

with it the new year's LIHEAP funding. In 2020, Virginia received $95 million in LIHEAP funds, and it is safe to assume a similar amount would be available again on October 1, 2020. This is in addition to the supplemental $23 million made available through the CARES Act.[14] Allowing eligible customers access to fiscal year 2021 LIHEAP funds prior to their arrears coming due will help avoid needless worry and anxiety from families that depend on LIHEAP funds each year and are facing unparalleled hardship now.

Coupled with this extension, we urge the Commission to adopt a standard **six-month grace period for repayment through April 30, 2021** waiving late fees, penalties, and collection-related charges during that time. This timeline also allows time for the implementation of policies that could lead to arrearage forgiveness for some consumers and for long term energy burden reduction. Stakeholders, utilities, and the Commission need time to develop a balanced plan to minimize the damage of this pandemic to the economy and to the families most at risk. Taking these measures now would buy a little time and prevent widespread social disruption while these interim and long-term solutions are pursued.

2. If the commenter advocates extending the mandatory moratorium on service disconnections indefinitely or for a significant period beyond June 15, please identify the programs and mechanisms, public or private, that will provide sufficient funding to ensure that costs of unpaid utility bills are defrayed and will not result in even higher costs on other utility customers.

The Commissions should take a **balanced response toward utility cost recovery** that offsets incremental costs related to Covid-19 with identifiable savings. Given the pervasive impact of the economic challenge on all sectors and persons, solutions must also be balanced, appropriately weighing the interests of utilities, consumers, and the Commonwealth's economy.

[14] Health and Human Services 2020 https://liheapch.acf.hhs.gov/Funding/funding.htm

While the economic crisis from Covid-19 affects all parties, it has a disproportionate impact on limited-income individuals, who live paycheck to paycheck and are vulnerable to even temporary income disruption. Solutions must be both equitable and compassionate so that the most vulnerable citizens are not facing status quo disconnection practices, when little else in their lives has truly returned to normal.

National regulatory expert and thought leader Jim Lazar recently published a blog through the Regulatory Assistance Project titled "Synchronizing the Regulatory Response to Covid-19,"[15] attached for the convenience of the Commission as "Attachment A." Lazar's article emphasizes that Covid-19 is likely to impose a broad array of costs **and** savings on utility operations, and that to some extent these impacts may offset each other. A precise and appropriate response should appropriately consider all relevant impacts to utility revenues, costs, and operations before applying any regulatory relief. It is important to take a holistic view of the Covid-related costs and offsets as the entire universe of circumstances (societal, economic, class and individual usage profiles) have changed since current rates were approved and deemed to be just and reasonable. While we consider the cost impacts of decreased commercial & industrial activity, temporary customer protections, and changes in operations, Lazar also identifies impacts as diverse as improved load factors and decreases in interest rates as dynamics relevant to determining incremental cost impacts. The point of "synchronizing" the response is to ensure that all facets of utility operations are considered to provide an optimal outcome for ratepayers and utilities. Looking at categories of costs in isolation (without considering all potential offsets) will lead to an inevitable upward pressure on rates and unmitigated ratepayer impacts.

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[15] https://www.raponline.org/blog/synchronizing-the-electric-regulatory-response-to-covid-19/

Utilities across the country are experiencing these impacts and many are already proactively seeking relief from their regulatory authorities. In Indiana, for example, a group of ten utility companies filed a petition to address coronavirus-related costs, which controversially includes lost revenues from declining sales as an incremental cost of Covid-19.[16] Regulators in multiple other states are also faced with how to "synchronize" the response to Covid-19 as utilities seek deferral to a regulatory asset as a means to protect against Covid-related revenue impacts.[17] For material, incremental, and extraordinary costs related to COVID-19 not offset by incremental benefits, deferral to a regulatory asset may be an appropriate pathway.

While the current conditions are unprecedented, regulatory actions taken in the midst of the 2008-2009 recession might provide some insight for balancing these considerations. The New York Public Service Commission ("NY PSC") instituted a proceeding to account for costs of utilities' voluntary actions to provide relief to customers and address rising levels of uncollectible expenses.[18] The NY PSC proposed five criteria for approval of deferral of these expenses: (1) utilities must already be taking all required and voluntary actions to minimize service terminations and continuing to minimize uncollectible expense; (2) current rates must be demonstrably unable to recover sufficient revenue to address working capital and uncollectible expenses; (3) proposed additional mechanisms must be warranted and appropriate given the

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[16] Joint Petition For (1) Authority For All Joint Petitioners To Defer As A Regulatory Asset Certain Incremental Expense Increases And Revenue Reductions Of The Utility Attributable To Covid-19; And (2) The Establishment Of Subdockets For Each Joint Petitioner In Which Each Joint Petitioner May Address Repayment Programs For Past Due Customer Accounts, Approval Of New Bad Debt Trackers, And/Or Details Concerning The Future Recovery Of The Covid-19 Regulatory Asset. Indiana Utility Regulatory Commission. Case No. 45377. https://www.citact.org/sites/default/files/45377-Joint-Petition-for-COVID19-Relief-05082020.pdf.

[17] *See, e.g.,* The National Association of Regulatory Utility Commissioners maintains a library of responses to COVID-19, *available here*: https://www.naruc.org/compilation-of-covid-19-news-resources/state-response-tracker/; E9 Insight Covid-19 Commission Coverage *available at: https://e9insight.com/covid-coverage/.*

[18] State of New York Public Service Commission. Order Instituting Proceeding and Seeking Comments, Case 08-M-1312. http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=08-M-1312&submit=Search.

terms of current rates; (4) deferrals must not result in an overearning position for the utility; and (5) the amount to be deferred must be 5% or more of net income.[19] We believe these criteria, particularly the consideration of a utility's overearning position, are an appropriate starting point for considering the relative costs and benefits of deferral in the current environment. The entire NY PSC order is attached as "Attachment B" for the convenience and consideration of the Commission.

At present, the extent of coronavirus-related impacts on utilities and their customers in Virginia are largely unknown, and the Commission is put in a position of making a impactful decision without all relevant information. To support these discussions and future policy decisions, the Commission should direct utilities to **collect and publish relevant arrearage and disconnection data** now and on an ongoing basis. Given the myriad potential impacts of COVID-19 on utility income statements, it is critical that policymakers and stakeholders have access to specific and timely information to make decisions. While it may be simple to identify changes to aggregate load, there is less capacity to recruit detailed, timely information about arrearages and disconnections. It is critical that the Commission and policymakers be provided with up-to-date arrearage and disconnection information to understand the ratepayer perspective of COVID-19 impacts. We simply do not have enough information as to the scope of the problem. The Commission rightly notes that uncollectible expenses could potentially disrupt cash flow and regular business operation, but at present the magnitude and threat of these uncollectible amounts isn't known. The Commission needs this information to make decisions that balance ratepayer and utility interests.

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[19] *Order Specifying Criteria for Deferral of Costs*, NY PSC Case 08-M-1312 (May 15, 2009), attached as "Attachment B."

Publicly available data on energy burden and arrearages will allow all interested stakeholders to determine the scope of the problem and assess energy assistance program effectiveness and gaps. Utilities should be required to report on the number of accounts and amounts in arrears, the number of disconnections, as well as information around the participation in and outcomes of energy assistance programs like payment assistance, discounts and payment plans, weatherization, and clean energy programs. The National Consumer Law Center has also published a data reporting template to provide greater visibility to decision makers.[20]

The Commission rightly asks who should bear the burden of uncollected costs in its order requesting comments. We believe that tracking and deferring certain costs according to the criteria identified above is an appropriate first step. For investor-owned utilities, this issue also necessarily entails the division of burden between ratepayers and shareholders. In an unprecedented public health and economic crisis, the Commission must find a reasonable balance between these groups.

3. Should the mandatory moratorium on service disconnections be replaced on June 15 (or some specific later date) with voluntary measures by utilities to reduce or avoid service disconnections, such as offering extended payment plans with no late fees and/or waivers of reconnection charges?

In our view, there is no reason that these measures need be substitute; in fact, Vote Solar sees mandatory customer protections and utilities taking all prudent actions to reduce the incidence of arrearage as complementary. The disconnection moratorium should be in place until at least the end of October 2020, followed by a six-month repayment grace period. Ensuring these protections on a mandatory basis grants certainty to Virginia households who might

[20] Howat, John. "The Need for Utility Reporting of Key Credit and Collections Data Now and After the Covid-19 Crisis." National Consumer Law Center. Attached as "Attachment C"

otherwise face a complex and unclear mesh of different utility practices. Alongside this mandatory moratorium on disconnections, utilities should be taking all reasonable steps to assist its customers in need at this unprecedented time. While customers are struggling financially due to the Covid pandemic and skyrocketing unemployment, investor-owned utilities are in a unique position and continue to have access to debt and equity. Utilities can take this moment to invest in a more affordable energy system for its customers through cost effective energy efficiency (EE) and demand-side management (DSM) measures.

Larger-than-usual bad debt and uncollectible customer accounts pose a potentially material cash flow and credit risk to electrical utilities. Without a reconciliation mechanism to help utilities track and recover any incremental increases to bad debt write-offs, those write-offs could become the responsibility of shareholders. Certainly, when a utility has incurred increased bad debt expense because normal disconnection practices have been waived—such as the disconnection moratorium—there is a valid argument that utilities should be made whole for that unforeseen increase in bad debt expense. Under the current circumstances, Vote Solar supports the ability of utilities to recover any incremental costs associated with incurring arrearages beyond what they would have but for the moratorium, subject to any offsetting savings occurring under these same circumstances. Alternatively, utilities could take advantage of the historically low interest rates, and voluntarily roll in incremental arrearages into the refinance of long-term debt, allowing the interest savings to absorb some of the forgiven amounts.

But more important than the issue of cost recovery of bad debt resulting from disconnection is preventing arrearages from ever converting to bad debt. Rather than waiting for customers to be disconnected for being in arrears, and for the arrears upon disconnection to ultimately turn into bad debt write-offs and negative credit reporting for consumers, utilities should fully embrace and explore options to forestall this unwanted conclusion.

One solution is to match customers who need relief with utility direct assistance programs. Of course, these programs tend to be based on income eligibility thresholds for receipt of benefits and there are many Virginians facing hardship to pay mounting bills that may not qualify for low-income thresholds based on previously earning above those numbers. Despite the additional $23 million in federal funds for LIHEAP from the CARES Act, existing relief programs are insufficient to match the potentially $500 billion+ looming Covid-related utility debt in Virginia.

A novel and creative solution to address this impending challenge could be **matching consumers who need debt relief with utility incentive programs for participating in energy efficiency or demand-side management programs.** Virginia has the potential to save 18.7% of its electricity from cost effective energy efficiency measures, with an impressive 29.3% potential savings in low-income households.[21] The National Renewable Energy Laboratory estimates Virginia households could save $1.5 billion annually from cost-effective energy efficiency improvements, or $729 per household per year.[22] EE improvements cost as little as 1c/kWh saved, and are a "no-brainer" approach to reducing long-term energy burdens.[23]

Pairing EE/DSM measures with arrearage relief, allows customers most in need to participate in programs that create value for all parties. Just for purposes of illustration, say that a customer is $700 in arrears to their electric utility. Through a Clean Relief for Energy Debt

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[21] Department of Energy https://www.energy.gov/eere/slsc/us-energy-efficiency-potential-maps

[22] "Virginia Residential Energy Efficiency Potential" National Renewable Energy Laboratory https://resstock.nrel.gov/factsheets/VA

[23] Nationwide, energy efficiency programs cost on average 2.1cents/kWh saved with lighting programs averaging only 1.1c/kWh saved. Lawrence Berkeley National Lab *The Cost of Saving Electricity Through Energy Efficiency Programs Funded by Utility Customers: 2009–2015* https://emp.lbl.gov/news/cost-saving-electricity-through-energy

("CRED") program, a customer would have the option to forgive the entire $700 arrearage as an upfront incentive to participate in an approved EE or DSM program (e.g., a smart thermostat program coupled with a time-of-use rate schedule). Through this program, a utility could forgive the $700 in arrears and convert some portion or all into an incentive for participating in the applicable DSM program. This solution would give customers the option of an up-front forgiveness of past due amounts in consideration of their prospective participation in these programs.

During the current pandemic, an EE/DSM pathway to arrearage forgiveness could be a "fair shake" for all customers facing economic hardship, without regard to the typical income-eligibility requirements associated with direct assistance programs. Customers that are willing to take on an EE/DSM program commitment (including behavioral changes to consumption) will earn their debt forgiveness upfront through an approved EE/DSM program, without creating a need to socialize bad debt and incurring the expense of disconnection. This pathway aligns the interests of the indebted consumer, the utility, and other consumers, as it is in everyone's interest to prevent the disconnection and have more customers engage in behaviors that positively influence the performance or cost of the electric grid. It's a "win-win-win."

Such solutions are aligned with the recently passed Virginia Clean Economy Act (VCEA). The VCEA establishes an energy efficiency resource standard, a 100% renewable energy portfolio standard, and encourages percentage of income payment plans, peak shaving programs and other EE programs.

For low-income customers that are not willing to participate in an EE/DSM program but are able to participate in a type of **arrearage management plan**, the forgiveness of Covid-era debt could be similarly viewed as an incentive to stay connected to the grid and contributing to the rate base. After successful completion of an arrearage management plan (i.e., making consecutive payments capped based on ability to pay), customer arrearages would be put in a regulatory asset and recovered by the utility from other ratepayers at the appropriate time. Despite the continuation of service and partial forgiveness of debt, such an arrearage management program could actually result in a net reduction of uncollectibles for participating utilities.

The National Consumer Law Center has, in response to the Covid-19 crisis, published a policy template for adopting arrearage management and percentage of income payment plans.[24] A recent resolution of the National Association of State Utility Consumer Advocates ("NASUCA") observes that arrearage management and other flexible repayment plans will need to be expanded where instituted and adopted by Commissions where there is no existing template.[25] The current circumstances provide compelling reasons to take on the call of NASUCA and NCLC to consider the merits of adopting some of the programs that are enabling states like Ohio, Massachusetts, Connecticut, New York, and Colorado to rely on these existing tools as their front-line defense against the disruptive impacts of Covid-19 on both customers and utilities.

Vote Solar recommends that the Commission adopt an arrearage management plan as a long-term policy, as discussed in NCLC's program design template, but notes that some form of an interim debt forgiveness incentive could be adopted in the interim to address Covid-related customer arrearages. While it may be impossible to prevent all disconnections, policies such as

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[24] Howat, John, "Electric Service Discount and Arrearage Management Program Design Template," National Consumer Law Center (April 2020), attached as "Attachment D."

[25] NASUCA Resolution 2020-01 (May 12, 2020): *NASUCA Recommendations Concerning the Effects of the Public Health and Economic Crises Resulting from COVID-19 upon Utility Rates and Services Provided to Consumers by Public Utilities*, attached as "Attachment E," *available at* https://www.nasuca.org/2020-01-nasuca-covid-19-policy-resolution/.

these are in the public interest of reducing the amount of bad debt write-offs and providing a path of hope for Virginians during this most challenging time.

Further Commission action to address long-term considerations of affordability and arrearage management is justified. The immediate crisis of customer affordability is rightfully the topic of this proceeding and our comments. However, Vote Solar notes that the current crisis has really exposed the fragile economic circumstances of average citizens and creates a moment of opportunity to adopt structural improvements to protect customers from future crises and from the risk of disconnection even in normal times. Vote Solar recommends that the Commission open a longer-term proceeding to explore the recommendations of the National Consumer Law Center's policy template and provide more thorough consideration of how customer programs aimed at encouraging customer conservation, efficiency, or use of clean energy resources could be leveraged as tools to improve affordability for ratepayers with a high energy burden.

Vote Solar sees great promise in pairing affordability and rate relief for low-income communities and customers with programs that provide permanent or structural improvements in place that help lower bills going forward. Direct financial assistance is compassionate and desperately needed at this time, but longer-term solutions should explore options that create lasting improvements to affordability.

WHEREFORE, Vote Solar requests that the Commission take immediate action to protect ratepayers from disconnection and to provide additional pathways to debt relief, consistent with the recommendations above. Vote Solar appreciates the opportunity to submit these comments and welcomes the opportunity to provide additional information.

__/s/ Odette Mucha______
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ATTACHMENT A

Vote Solar Comments

Docket No. PUR-2020-00048

MENU

Blog

Synchronizing the Electric Regulatory Response to COVID-19

Jim Lazar

On May 5, 2020

Filter

The COVID-19 crisis is influencing every aspect of the global economy, and electric utilities are certainly seeing significant impacts. Before utility regulators take actions to adjust revenues or rates to reflect COVID-19 impacts, it is important to identify and quantify the broad range of impacts so that those that increase costs or reduce sales can be appropriately offset against those that decrease costs or cause increased sales in some sectors.

The most easily quantified impacts are:

a) Lower commercial sales (with much of the commercial sector closed in March and April);
b) Higher residential sales (as people are home more); and

c) Lower fuel and purchased power costs (due to the decline in loads and in natural gas prices).

But there are many others. These include, for example:

d) Lower revenues from a disconnection moratorium imposed by most states;
e) Improved load shapes, from the reduction of daytime peaking commercial activity;
f) A sharp drop in interest rates, and thus in the cost of debt and equity capital;
g) Changes in labor costs, both up and down;
h) Increases in accounts receivable, and ultimately uncollectible accounts;
i) Adjustments to utility capital improvement programs across all sectors — generation, transmission and
distribution; and
j) Possible acceleration of deployment of advanced metering infrastructure, to reduce the future exposure of utility employees to occupational hazards.

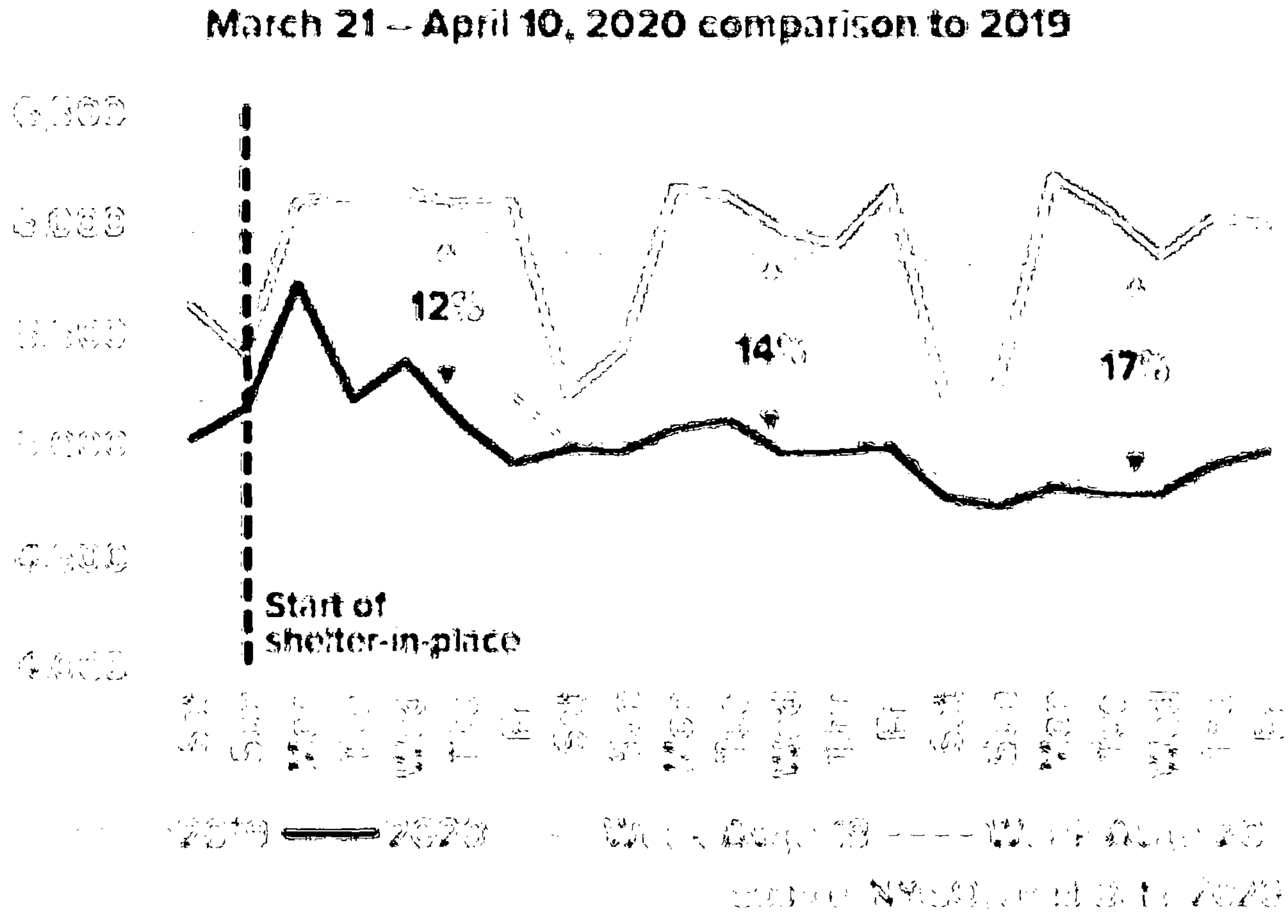
The purpose of this blog is not to attempt to quantify these impacts for any utility; that is the job of utility regulators, with access to extensive data and adequate time to properly consider evidence. The purpose is simply to point out that many of these are offsetting impacts, so that the utility rate adjustments required may be smaller if applied simultaneously than if individual elements are applied to separate rate adjustments over the coming year.

The response will be different for regulators in vertically integrated states and for those in restructured states. And the response will be different for regulators implementing revenue regulation (decoupling) or performance-based regulation (PBR) mechanisms.

Sales volumes

Most utilities are experiencing sales volume declines, primarily in the commercial sector, as office and retail workers have stayed home. For example, Figure 1 shows loads in New York City for a three-week period:

Figure 1: Electricity Consumption for New York City [1]



There are two obvious impacts visible in this simple graphic. First, total sales are lower. Second, the difference between weekday and weekend loads is much smaller, with most office buildings closed. This shows only daily sales, not hourly sales, so one cannot reach conclusions about the daily load shapes, but there is certainly reason to investigate whether the flatter day-to-day load shape is also reflected in a flatter hour-to-hour load shape.

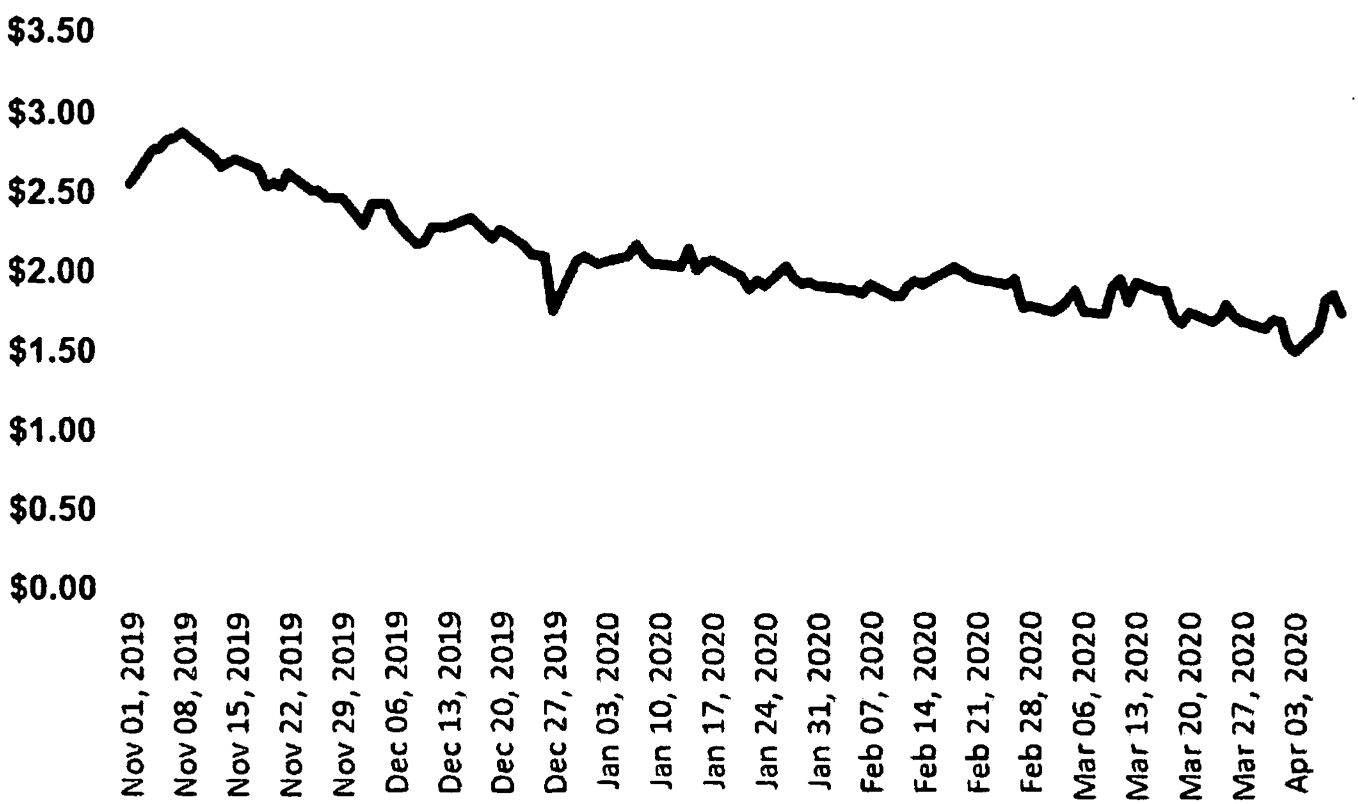
This reduction in sales volumes will bring a reduction in revenues. Depending on the rate structure (customer charges, demand charges and energy charge blocks, e.g., time-varying or inclining block), the impact will vary from utility to utility. But the improved load shape from lower commercial activity will likely result in a significantly lower average cost for power supply, per kWh, as high-cost resources are left idle during weekday hours.

Many utilities have rate designs that limit their revenue loss in response to short-run variations in commercial and industrial sales. Demand charge "ratchets" apply a demand charge each month based on the highest demand reached in the past year. These are put in place specifically to offset the high systematic risk of the large commercial and industrial sectors (which add a premium to the utility cost of capital compared with more stable residential revenues). Some industrial customers are seeking regulatory relief from demand charges and demand ratchets, as these result in high bills during time of curtailment of production. [2] Where demand charge ratchets are in place, the growth in residential sales may generate far more incremental margin than the loss of non-residential sales. [3]

Fuel and purchased power costs

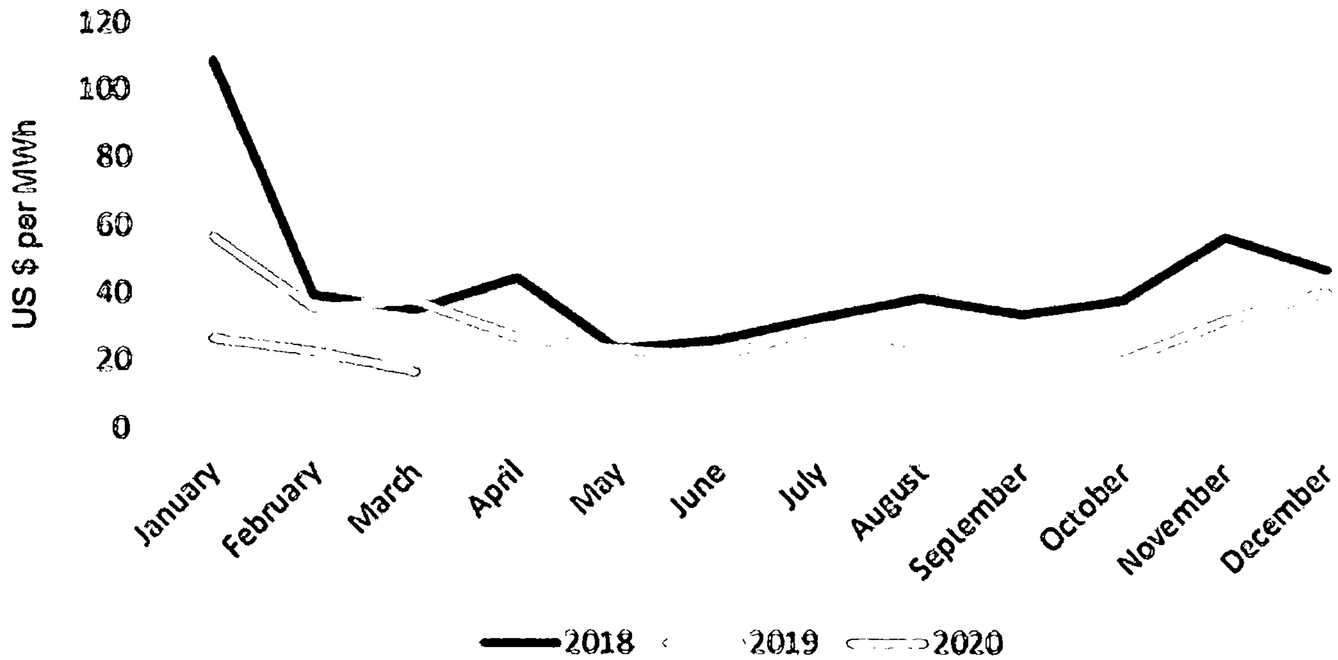
Even without COVID-19, some fuel costs were declining in response to an oil price war between Saudi Arabia and Russia, launched at the beginning of the year. But the sharp drop in electricity and industrial demand for natural gas has sharply depressed the price of gas, the most common fuel for electricity generation.

Figure 2: Henry Hub Natural Gas Spot Prices, November 2019–April 2020 [4]



These lower fuel prices also result in lower market-clearing prices in electricity markets, affecting both utilities buying power for load, and for customers that have elected real-time pricing in competitive market states. Some utilities may depend on wholesale sales of power, which may be depressed. For example, the graphic below compared ISO-New England prices for the first three months of this year compared with the previous two years.

Figure 3: Wholesale Electricity Prices in ISO-New England, 2018-Present [5]

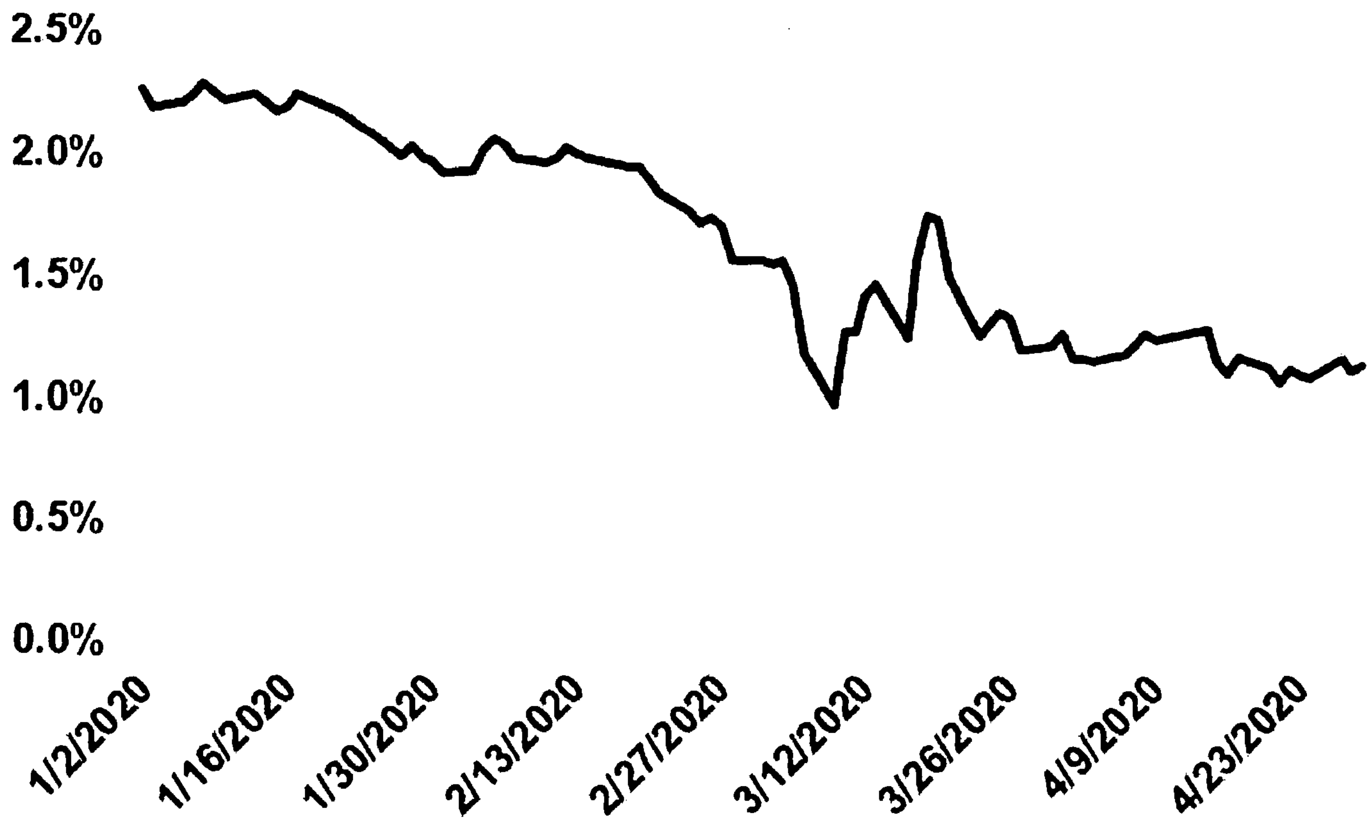


Fuel and purchased power cost changes are typically passed through to consumers quickly, within a few months. A few states apply these changes only annually, and others only after a general rate case. Without any other elements being flowed through quickly, many utilities may be obligated to flow through rate reductions (from fuel and purchased power costs) even as they are experiencing revenue attrition (from sales declines). In restructured jurisdictions, default or standard service is often procured on a six-month basis for residential customers, but more frequently for commercial and industrial customers. Competitive supply and aggregations may have longer-term pricing structures.

Cost of capital

Interest rates have dropped sharply in a "race for safety" by investors. Federal one-year and 10-year interest rates have dropped to near-zero levels. Utilities have immediate access to this lower-cost capital for their short-term debt and may be able to refinance longer-term debt at lower rates as well.

Figure 4: Ten-Year Treasury Interest Rates [6]



In the past decade, utility bonds have carried a premium of 200-400 basis points over the 10-year treasury interest rate, and utility returns on equity have approximated a premium of 500-700 basis points over the 10-year treasury interest rate.

Pragmatically, any business generating any profit is relatively more desirable to investors today than in December. Utility share prices have dropped, but this is quite possibly due to an expectation that they will suffer earnings attrition related to the crisis, and those losses will not be fully recoverable from electricity consumers.

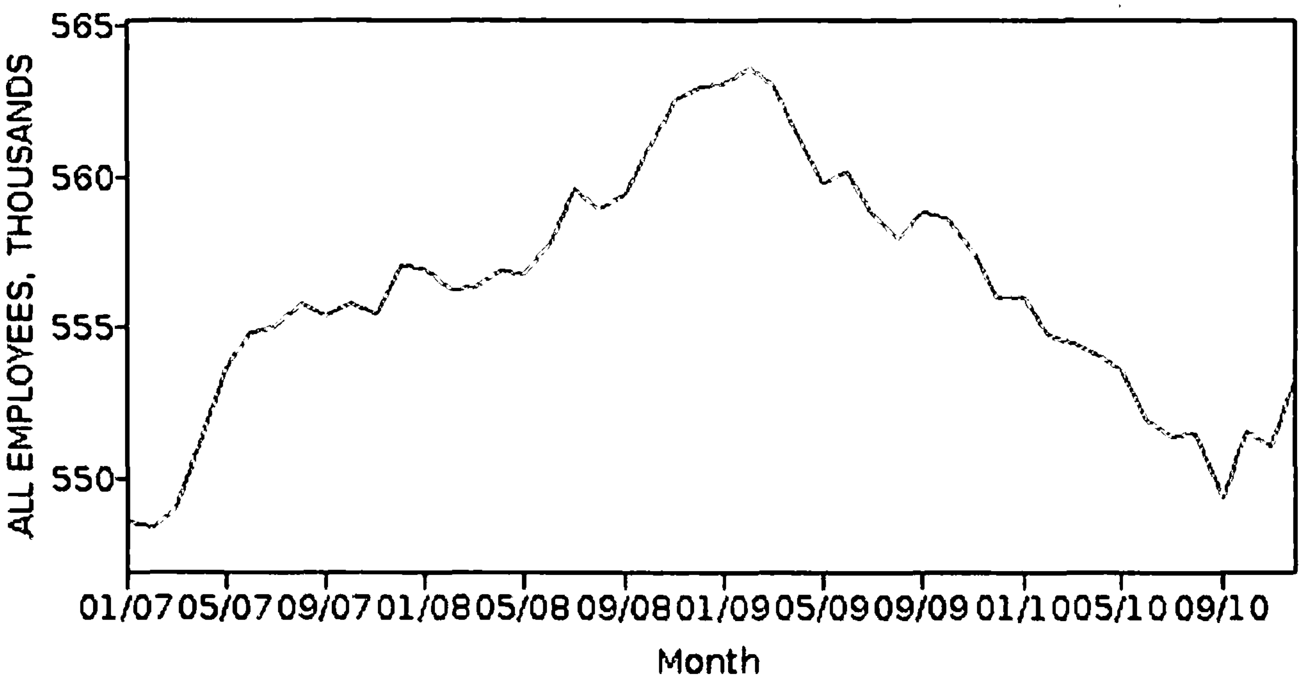
Labor and other operation and maintenance costs

Some utilities will experience labor cost increases, as they may experience lower labor productivity due to "work from home" programs, and otherwise adapt to the need to provide for the health and safety of their employees. Regulators should be prepared to examine these cost increases for prudence, but many of these costs will no doubt be reasonable. However, with lower occupancy, building operating costs may be greatly reduced, which will tend to offset any labor productivity issues. And entire program areas may be reduced, from software development to tree trimming, achieving significant net reductions in overall operation and maintenance (O&M) expenses.

The lower electricity consumption we are experiencing should mean that entire power plants can be temporarily (or perhaps permanently) closed, thereby avoiding ongoing labor costs for those units. There is evidence this is occurring — coal consumption is down sharply, and in many places, this means that power plants are being idled.

In addition, many utilities, in response to sales attrition, will impose hiring freezes, eliminate overtime work and even furlough employees in non-critical positions to conserve cash and preserve earnings. During the 2008-09 economic contraction, utility labor forces dropped by an average of about 3% (and was much higher for some hard-hit utilities).

Figure 5: Utility Sector Employment in the Great Recession, 2007–2010 [7]



That pattern is being repeated: Data from the U.S. Bureau of Labor Statistics show a decline of about 3,000 workers in the utility sector for March 2020 compared with March 2019. Indeed, on April 29, DTE (a utility serving the Detroit area), announced a $60 million O&M spending cut. [8]

Regulators should bear in mind that labor costs are variable, not fixed, costs when considering the overall impacts on utilities of the current contraction in sales. Regulators should examine changes in the labor costs of utilities seeking rate adjustments, to ensure that all known reductions are also reflected.

Accounts receivable

Many states have imposed disconnection moratoriums, and some have suspended late fees and interest charges for non-payment. These will tend to increase utility accounts receivable, and ultimately increase uncollectible accounts. If the recession deepens and extends over a year or more until a vaccine is developed and availability becomes widespread, these amounts may be significant. This will be offset by better public health than would occur if power were disconnected, but those benefits do not accrue directly to utilities.

Capital construction programs

Most utilities have extensive capital construction programs, which create a need for additional capital, derived from retained earnings, depreciation accrual, bonds and equity issuance. For many utilities, these programs will be adjusted in the wake of COVID-19, even if only due to unavailability of materials, contract management, subcontractors and skilled labor.

There may be opportunities for accelerating important capital projects as well. Lower costs of capital may mean that grid modernization and grid reliability investments should possibly go forward quickly once labor and supply chain issues are resolved.

Synchronizing the regulatory response to COVID-19

Utilities will suffer financial impacts because of the current crisis, and regulators will be asked to address these impacts. **The key for regulators is to consider all of the impacts together, so that those that put upward pressure on rates and bills can be offset by those that provide downward pressure.**

A first step would be to require utilities to create deferral or "suspense" accounts to track all the changes — positive and negative — in operating expenses, including labor, fuel and purchased power. The deferral of fuel adjustments until all other impacts can be considered would likely deny consumers some bill relief in the short run (when it will be most needed by consumers facing lost income) but may enable greater rate and bill stability in the next year or two by offsetting these against future sources of rate pressure.

A second is to require utilities to disclose any changes to their balance-of-year labor or capital construction expenses that can be identified. These may be upward or downward.

A third is to ensure that gained margins from additional residential sales are properly treated. In general, the sales margins are higher for residential sales than for large commercial and industrial sales. It is possible that a utility could experience a 10% decline in commercial and industrial sales, offset by a 5% increase in residential sales, generating the same company-wide sales margin.

A fourth is to ensure that the sharp impacts on consumption being experienced are not included in test periods for future rate cases unless they are determined by the regulator to be enduring changes. Expectations are that a vaccine will be developed within a year, and widely distributed within 18 months.

Finally, regulators should prepare to re-examine the utility cost of capital in conjunction with any application for rate relief due to lower sales volumes.

Special issues for decoupled jurisdictions

About half of US states have one or more electric utility operating under a revenue regulation (decoupling) framework, which provides some assurance that allowed revenue requirements will be recovered (absent prudence disallowances), independent of sales volumes. These were mostly designed to reduce utility incentives to pursue additional sales or to resist energy conservation and customer-sited renewable energy.

It is safe to say that none were designed with the current circumstance in mind: a sudden and deliberate pandemic-induced economic contraction such as we are experiencing. But it is equally certain that most are designed to provide recovery of lost sales margins from any cause (this has been a selling point, in comparison to lost revenue adjustment mechanisms), and utilities are currently experiencing lost sales margins.

A utility experiencing a 10% reduction in sales, and for which variable costs represent one-half of retail revenue, would expect about a 5% increase in rates through a decoupling mechanism. Then, in a year or two, when sales recover, the same utility would experience an increase in sales, and decrease in rates if the same mechanism were applied.

But the increase in rates from a decoupling adjustment will generally not be synchronized with the decrease in rates from lower fuel costs. This can lead to a situation where rates are reduced by 5% in the short-run, due to lower fuel costs, then increased a year later when fuel costs recover at exactly the same time that a decoupling adjustment also increases rates. By way of example, for Hawaii, with high fuel costs due to oil as the primary generating fuel, this could lead to a 10% or more decrease in rates as soon as May (from lower fuel costs), followed by a 20% increase in rates in a year's time when a recovery in fuel costs may coincide with an upward decoupling adjustment to base rates.

Some decoupling mechanisms determine and apply adjustments within individual customer classes. Because residential sales are rising, while commercial and industrial sales are suspended, this can lead to a result where residential rates are reduced in a decoupling adjustment, while commercial rates must be increased. Regulators should probably require examination of changes in load shapes by customer class, to see if the cost of service of some classes may have declined, while for others it has increased. We caution, however, that reflecting this in larger rate increases for commercial customers may adversely affect general governmental efforts to retain and restore commercial activity and employment. [9]

A second option is to simply defer fuel cost and purchased power cost decreases in the short run to be offset against sales attrition-driven decoupling rate adjustments the following year.

Another option is to reconsider the allowed rate of return, given lower costs of debt and equity capital, in computing a decoupling adjustment. If the cost of capital has declined, this may be a reasonable way to offset the effect of lower sales volumes in a decoupling adjustment.

Special issues for performance-based regulatory programs

Many states have introduced performance-based regulation (PBR) elements to temper the utility incentive to increase earnings by increasing investment and instead link profits to desired outcomes. Some of these incentive mechanisms reward overall cost control, others reward specific resource acquisition, and still others reward progress towards specific regulatory goals. It is safe to say that none of these mechanisms anticipated the potential magnitude of impacts associated with the COVID-19 pandemic.

Most multi-year rate plans, a form of PBR, include some sort of "Z-factor" to account for deviations in consumption, revenues, or earnings that are outside of the PBR framework. The deviations due to COVID-19 may fall into this realm.

Some of the metrics for PBR will require re-examination considering current circumstances. For example, nearly every utility will achieve fuel cost reductions, even without any sort of special managerial skill. But some utilities will have adapted to a work-from-home regime for their office employees more adeptly than others, and thus been able to maintain system reliability and customer satisfaction better than others. This may be captured by existing service quality metrics, but it may be a new metric entirely.

Summary

Regulators will see filings from utilities seeking to recover from the financial impacts of the COVID-19 crisis. These filings may contain information on some, but not all, of the impacts. Regulators should take a solemn pause before they rush to adopt partial adjustments, ensuring that all relevant impacts, positive and negative, are considered concurrently. If interim rate relief is sought, regulators should consider all relevant impacts, with an eye to stability over the next 24-36 months.

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[1] Strategen. (2020, April 15). Perfect 50-State Storm: COVID-19 and the Utility Crisis [Webinar]. Retrieved from https://www.strategen.com/webinar-perfectstorm

[2] Downey, J. (2020, April 6). Manufacturers Call on Duke Energy, Regulators to Suspend "Windfall" Charges During Pandemic. *Charlotte Business Journal.* Retrieved from https://www.bizjournals.com/charlotte/news/2020/04/06/manufacturers-call-on-duke-energy-regulators-to.html

[3] Sector and Sovereign Research (2020, April 20). *Resilient Residential Sales and Robust Residential Gross Margins Should Protect Utility Profits Through the Lockdown.*

[4] U.S. Energy Information Administration. Henry Hub Natural Gas Spot Price. Retrieved from https://www.eia.gov/dnav/ng/hist/rngwhhdD.htm

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[7] US Bureau of Labor Statistics. Employment, Hours, and Earnings from the Current Employment Statistics Survey (National). Retrieved from https://data.bls.gov

[8] Cook, A.D. (2020, April 29). DTE to Cut Spending in Response to Pandemic. *RTO Insider.* Retrieved from https://rtoinsider.com/dte-cut-spending-response-pandemic-161582/

[9] For a discussion of the differentials in cost of service and cost of capital by class, see Chapter 7.2 of *Electric Cost Allocation for a New Era: A Manual.*

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ATTACHMENT B

Vote Solar Comments

Docket No. PUR-2020-00048

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on May 14, 2009

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
Robert E. Curry, Jr.
James L. Larocca, recused

CASE 08-M-1312 – Proceeding on Motion of the Commission to Consider the Financial Impacts on New York State's Energy Utilities of Changes in Uncollectible Expense and Arrearages in the Current Economic Environment.

ORDER SPECIFYING CRITERIA FOR
DEFERRAL OF COSTS

(Issued and Effective May 15, 2009)

BY THE COMMISSION:

BACKGROUND

On September 29, 2008, Department of Public Service Staff (Staff) convened a utility summit to discuss the impact of fuel costs and the weakening economy on the State's most vulnerable customers. At that meeting, the State's major energy utilities agreed to certain voluntary operational practices, applicable to residential accounts, for the cold weather period of November 1, 2008 through April 15, 2009, intended to help minimize winter terminations of residential gas and electric service to ensure health and safety. As the end of the winter heating season approached, Staff encouraged the utilities to take additional voluntary measures to inform both residential and non-residential customers of their rights and protections under the Home Energy Fair

Practices Act (HEFPA) and other related rules, and to manage the relatively large number of customers subject to service termination at the end of the heating season.

The utilities' voluntary actions have the potential to alter revenue arrearages, cash flow and uncollectible expense. Additionally, the general economic situation might precipitate an increase in the number of customers unable to pay their utility bills, which also has the potential to alter revenue arrearages, cash flow and uncollectible expense. Because these conditions might affect utility earnings, financial flexibility and access to capital markets on reasonable terms and conditions, this proceeding was commenced, in an Order Instituting Proceeding and Seeking Comments (Order Instituting Proceeding) issued December 16, 2008, for the purpose of developing appropriate ratemaking and accounting procedures to address these impacts.

As discussed in the Order Instituting Proceeding, a weak economy, high and volatile energy prices and uncertain financial markets created unusual and significant challenges for ratepayers and energy utilities, particularly during the 2008-2009 winter heating season. At the utility summit on September 29, 2008, the State's major energy utilities agreed to certain voluntary operational practices, applicable to residential accounts, for the cold weather period, November 1 through April 15. These temporary changes included: (1) accepting all Home Energy Assistance Program (HEAP) payments and offering fair and reasonable payment agreements to financially stressed customers; (2) extending additional protections to elderly, blind and disabled customers; (3) refraining from service terminations during periods of extreme cold weather; (4) expanding bill payment options; and (5) elevating as a priority consumer outreach and education about programs and services available to assist consumers. In general, the State's major energy utilities adopted similar measures in the past several heating seasons, although the financial impact of these initiatives may be greater this year than in past years. Incremental initiatives for the 2008-2009 winter heating season consisted principally of: (1) a new agreement by utilities to offer fair and reasonable Deferred Payment Agreements and accept regular and/or emergency HEAP payments for service applicants in addition to active customers, and (2) a new agreement by some utilities to refrain from scheduling residential service terminations on days when the local weather forecast predicts temperatures below 32 degrees Fahrenheit rather than below 20 degrees Fahrenheit as in previous years.

As anticipated, the difficult economic conditions have been challenging for both customers and utilities. Through March 2009, the number of customers in arrears greater than 60 days is 7.5% higher than last year, and the associated dollar amount of arrearages is 19% higher than last year. Although final termination notices have increased 16% for this same time period, utility service terminations for the heating season are 4% less than last year, reflecting, in part the voluntary measures adopted by utilities.

In recognition of the large number of pending service terminations as the heating season came to a close, Staff asked the utilities to renew their efforts to inform both residential and non-residential customers of their rights and protections concerning energy service termination and reconnection, as well as potential payment assistance programs. Additionally, Staff requested that utilities consider affording customers facing service termination at the close of the winter heating season additional opportunities to pay utility bills before shutting off service. Such practices would provide welcome relief and flexibility for customers who do not presently have the financial resources to pay their energy bills. The general body of ratepayers would also benefit to the extent that this additional flexibility provides affected customers the opportunity to improve their financial circumstances and once again contribute to meeting utility costs, keeping the utility's pool of ratepayers as large as possible. Several utilities adopted these voluntary practices.

The Order Instituting Proceeding called for comments, due within 30 days of issuance of the Order, on appropriate ratemaking and accounting procedures that would address the financial impact of these factors on utilities. Parties were asked to identify possible rate mechanisms that could be instituted to provide relief to utilities, including: (1) quantifying and deferring the return that may be required on utilities' increased working capital needs due to higher than normal 2008-2009 arrearages and uncollectible expense and (2) ways utilities might defer uncollectible expense in excess of the level reflected in current rates. Parties making proposals for cost recovery were instructed to take into consideration the need to minimize bill impacts.

Comments were also sought on the following criteria that we suggested might be required for approval of utility deferral proposals: (1) the utility must demonstrate that it is taking all required and voluntary actions to minimize service terminations, while continuing to pursue reasonable actions to minimize uncollectible expense; (2) the utility must demonstrate that its current rate plan mechanisms do not adequately address current working capital and uncollectible expense and that any recovery of costs provided as a result of this proceeding does not duplicate the current treatment of these costs; (3) the utility should demonstrate that any proposed additional mechanisms are appropriate and warranted given the terms and risks undertaken in its current rate plan; (4) the utility may not be in an overearnings position after any proposed deferral or additional relief; and (5) the additional amount to be recovered and the amount deferred should represent approximately 5% or more of net income on an after-tax basis.

Comments in response to the Order Instituting Proceeding were received from Central Hudson Gas & Electric Corporation (Central Hudson), Consolidated Edison Company of New York (Con Edison) and Orange & Rockland Utilities, Inc. (O&R) filing jointly, Corning Natural Gas Corporation (Corning), the National Grid utilities (Brooklyn Union Gas Company (National Grid NY), KeySpan Gas East Corporation (National Grid LI), and Niagara Mohawk Power Corporation (NMPC), collectively "National Grid"), National Fuel Gas Distribution Corporation (NFG) and New York State Electric & Gas (NYSEG) and Rochester Gas & Electric Corporation (RG&E) filing jointly. These comments are summarized in Appendix A.

In conformance with the State Administrative Procedure Act, a Notice of Proposed Rulemaking concerning this proceeding was published in the State Register on March 18, 2009. The SAPA §202(1) comment period expired on May 4, 2009. Multiple Intervenors (MI) submitted comments on April 30, 2009 and its comments are summarized in Appendix A.

DISCUSSION

The utilities provided numerous comments regarding the deferral mechanism proposed in the December 2008 Order. Their comments focus on the proposed conditions required before we grant deferral authority, which costs may be deferred, and the time period to which the proposed deferral mechanism applies.

Upon consideration of all comments, we authorize a one-time deferral. Each utility will have the opportunity to make a deferral filing subject to the following conditions: (1) amounts the utility seeks to defer must represent unrecovered incremental costs attributable to the voluntary actions requested by Staff related to the 2008-2009 winter heating season; and, (2) deferrable costs will include incremental uncollectibles, incremental working capital costs on arrearages, and incremental external costs directly related to outreach and education activities informing customers of payment options, programs available to assist customers during this period, and customers' rights and protections.

Utilities retain the opportunity to file petitions for deferral of costs, including incremental uncollectible expense unrelated to the voluntary measures.[1] Traditionally, we require that deferral accounting requests meet the following three conditions: (1) a demonstration that the subject costs are incremental to the related amounts reflected in current rates, (2) the amount to be deferred must be material to the utility's earnings and extraordinary in nature,[2] and (3) the utility cannot be over-earning. These traditional criteria for cost deferral provide sufficient protection for utilities and aid in setting just and reasonable rates.

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[1] On February 12, 2009, Central Hudson filed such a petition requesting authority to defer increased bad debt expenses, in Case 09-M-0140, <u>Petition of Central Hudson Gas & Electric Corporation for the Authority to Defer Bad Debt Net Write-off Expense for the Year Ended 12/31/08</u>.

[2] In a recent case we explained material and extraordinary as an expense exceeding 3-5% of net income, depending on the circumstances. This threshold is consistent with the Uniform System of Accounts for Natural Gas Companies Part 201.7, which defines an extraordinary item as more than approximately 5% of income. Case 07-G-1411, Order Denying Deferral (issued March 27, 2008).

Deferral Conditions and Applicability

Several utilities assert that the proposed standards for cost deferral should be relaxed substantially, and that we should permit deferral and recovery of a wide range of costs attributable to the economic downturn. For example, National Grid asserts that the deferral criteria set forth in the Order Instituting Proceeding are too restrictive to offer meaningful rate relief. NFG asserts that the proposed deferral conditions amount to the same criteria currently applicable to all utility deferral petitions. Corning and Con Edison suggest that the proposed conditions might be more stringent than those imposed on utilities seeking traditional deferral authority. NFG opposes applying the proposed standards to incremental expenses arising out of the voluntary measures requested by Staff, and suggests that we allow utilities to recover any costs incurred as a result of implementing those measures. All utilities argue that the proposed materiality threshold, 5% of net after-tax income, is too restrictive.

Several utilities, including NFG and Con Edison, claim that the deferral conditions specified in the Order provide a disincentive for utilities to comply with the identified voluntary actions intended to assist vulnerable customers. NFG and others argue that these criteria will have the effect of penalizing utilities for their cooperation with Staff.

We are persuaded that our traditional criteria for evaluating deferral requests should not be applied to the incremental costs of the voluntary measures identified in this Order. We agree that utilities should not be penalized for their cooperation. In providing additional voluntary assistance to vulnerable customers at Staff's request, utilities likely have incurred, and will likely continue to incur, incremental costs. These costs include increased working capital requirements, uncollectible expense and outreach expenditures. We conclude that utilities should be permitted to defer reasonable, documented uncollectible expense and working capital costs attributable to the voluntary measures identified herein, subject to the requirement that they are not recovered elsewhere in rates. Such costs may be attributable to either voluntary measures newly adopted for the 2008 – 2009 winter heating season, or to incremental costs incurred during this winter heating season, attributable to voluntary measures continued from past winter heating seasons.

In addition to uncollectible and working capital costs, utilities may also request deferral of reasonable incremental external costs directly related to outreach and education activities to inform customers of payment options, assistance programs and their rights and protections. National Grid argues that we should allow recovery for increased expenditures on collection activity because the activity assists in minimizing uncollectible expense, thus benefiting utility ratepayers. Because the primary beneficiary of the increased collections activity is the Company itself, we do not consider increased collection activity costs related to the voluntary measures sought by Staff to assist customers, and we will not consider requests for deferral of such costs in this proceeding.

We recognize that adoption of the voluntary measures has, for many utilities, resulted in fewer residential service terminations during the 2008 – 2009 winter heating season than in the prior year, despite an increase in the number of accounts subject to termination. Accordingly, Staff has encouraged utilities to consider the individual circumstances of customers subject to immediate termination at the close of the winter heating season. Staff has encouraged the utilities to work with those customers, providing them with additional time to develop the means to continue paying for utility service, now that heating expense -- the largest portion of most residential energy bills -- is minimized.

At the behest of Governor Paterson, Staff has also asked utilities to expand their efforts to inform residential and non-residential customers of their rights and protections concerning service termination, as well as potential payment assistance programs.[3] These initiatives benefit customers currently lacking the ability to pay their energy bills, by providing needed information and flexibility in avoiding service termination. These measures benefit ratepayers in general, because some short-run

[3] For example, the Office of Temporary and Disability Assistance reports that both emergency and regular HEAP payments are available past the end of the winter heating season, until May 15, 2009.

assistance may enable the affected customers to continue as contributing members of the pool of ratepayers over the long-term. Continuing to spread a utility's revenue requirement across the broadest possible pool of ratepayers keeps the contribution required of each individual ratepayer as low as possible. Therefore, we will permit deferral of reasonable, unrecovered, incremental working capital requirements, reasonable incremental uncollectible expense and reasonable incremental external costs of outreach and education activities, incurred between April 15 and June 30, 2009, upon a demonstration that the additional voluntary measures were adopted by the utility and that the incremental costs are attributable to these additional voluntary measures.

The following guidelines apply to the measurement and quantification of incremental costs. Incremental uncollectibles expense shall mean the incremental net write-offs of the accounts that benefited from the voluntary measures attributable to the 2008-2009 winter heating season. Incremental working capital costs for the increase in uncollectibles and arrears attributable to the 2008-2009 winter heating season period shall mean the calculation of the average balance of arrears on accounts that benefited from the voluntary measures multiplied by a utility's rate of return.

Utilities retain the opportunity to file requests for deferral of extraordinary expenses subject to our traditional criteria for expenses not specifically described above, such as incremental uncollectible expense not associated with the voluntary measures. Regarding such expenses, our concern remains ensuring the continued financial health of the utilities most affected by increases in arrears and uncollectible expense. Our intent was not to make utilities immune to the financial downturn, indeed, in its comments, NFG noted that the Order Instituting Proceeding "properly makes no such proposal." After reviewing all the comments from utilities, we are convinced that deferral authority subject to our traditional conditions sufficiently protects utility cash flow, earnings and access to capital.

Period for Which Deferral of Costs May Be Sought

Several utilities assert that we should not limit deferral of costs in this proceeding to the 2008-2009 winter heating season. Con Edison claims that limiting deferral to costs incurred during this period ignores the fact that, due to the current economic crisis, uncollectibles began to rise prior to this period and, Con Edison asserts, will continue to rise after the winter heating season ends. NYSEG and RG&E suggest a longer period, October 1, 2008 – May 31, 2009. Central Hudson seeks clarification as to what time period the winter heating season includes, and notes that many customers carried arrearages from the summer months into the winter heating season. National Grid contends that due to the continuing and increasing weakness in the economy, expanding any proposed relief beyond the 2008-2009 heating season should be explored.

We reiterate that we established this proceeding specifically to determine whether special ratemaking procedures are necessary to deal with the potential additional financial strain of increased arrears and uncollectibles expense due to the peak seasonal energy use for winter heating and the additional costs arising from the voluntary actions undertaken during the November 1, 2008 – April 15, 2009 winter heating season. As discussed above, we recognized that the adoption of the voluntary measures has contributed to a higher than usual number of potential service terminations immediately following the close of the winter heating season. Consequently, Staff asked the utilities to expand their outreach and education efforts and provide customers with further opportunities to develop solutions before terminating service. Therefore, we will permit utilities deferral of reasonable, unrecovered, incremental working capital requirements, reasonable incremental uncollectible expense and reasonable incremental external costs of outreach and education activities, incurred between April 15 and June 30, 2009, upon a demonstration that the additional voluntary measures were adopted by the utility, and that the incremental costs are attributable to these additional voluntary measures. Concerning residential service terminations, we expect that utilities will continue to transition, through June 30, 2009, from the voluntary measures taken during the heating season to their long standing historical practices. To the extent a utility adopts residential service termination practices that are more stringent and provide less protection to customers than its historical practices, such changes and the associated effect on the utility's costs will be considered in our review of its deferral petition.

Central Hudson sought clarification regarding whether this proceeding addresses uncollectibles actually written off as bad debt during the winter heating season, or uncollectibles written off later, but resulting from customer usage during the winter heating season. The uncollectibles addressed in this proceeding are those resulting from customer usage during the 2008 - 2009 winter heating season. Once again, we note that utilities retain the opportunity to file a traditional petition for authority to defer extraordinary expenses not recovered here.

<u>Other Issues</u>

Some utilities voiced concern that actual bad debt write-offs for the 2008-2009 winter heating season will not be known until later in calendar year 2009, and in some cases, not until early in calendar year 2010. Thus, the utilities cannot presently quantify the costs addressed here. We appreciate this logistical difficulty, and therefore do not require an immediate filing to obtain the relief outlined in this Order. Once each utility quantifies these costs, the utility may then file a petition requesting deferral authority. The utilities should include supporting documentation with such petitions. We will consider each petition individually to determine whether the authority requested is reasonable and in accordance with the conditions set forth in this Order.

The Order Instituting Proceeding envisioned our consideration of the utilities' deferral requests within approximately 90 days. Upon review of the filed comments, the potential complexities in calculating the costs to which deferral under this Order applies, and the necessary examination of significant volumes of documentation, we no longer anticipate that all filings can be considered within such an abbreviated period of review. Nonetheless, our desire to act quickly on the anticipated deferral requests continues, and we therefore direct Staff to review such filings as expeditiously as possible.

In response to our invitation, some utilities proposed specific mechanisms and amortization periods for the recovery of costs deferred as a result of this proceeding.[4] We decline to address these proposals at this time. In general, these matters are best considered in the context of each utility's specific circumstances, and will instead be considered on a case by case basis if and when each utility submits its petition for deferral authority allowed under this Order.

Several utilities proposed alternative ratemaking procedures, including reconciliation mechanisms allowing recovery of actual uncollectibles expense and working capital impacts, thus reducing the utilities' exposure to variance in actual uncollectible expense from the amount recovered in rates. We choose not to adopt those proposals in this proceeding. Many of the proposed mechanisms were highly company specific, and thus not appropriately addressed in a generic proceeding such as this. Additionally, in setting a utility's rates, we consider the business risks a utility faces in setting the allowed rate of return. The utilities' presently allowed rates of return do not reflect the reduced business risk such reconciliations would provide.

MI argues that, should we allow recovery for increased uncollectible expense and arrearages, we should refrain from creating or exacerbating interclass subsidies between customer types or service classifications. In this Order, we are not actually approving deferral authority, nor are we establishing any specific recovery mechanisms. Therefore, we decline to address MI's recommendation at this time. When we evaluate utilities' individual petitions seeking deferral authority and recovery, which may be filed as a consequence of this Order, we will consider MI's concerns.

CONCLUSION

We will allow a one-time deferral of the unrecovered incremental costs attributable to the specified voluntary actions that the utilities undertook during the 2008-

[4] For example, NFG suggests that utilities seek recovery of deferred costs in an appropriate rate proceeding, while National Grid proposes that its constituent utilities recover particular deferred costs through various existing adjustment clauses.

2009 winter heating season and immediately thereafter. We will not subject such petitions for deferral to our traditional materiality or over-earnings conditions because the utilities incurred these incremental costs through voluntarily complying with Staff initiatives. We will allow deferral of the following costs, not already recovered through rates: (1) incremental uncollectibles; (2) increased working capital costs on arrearages resulting from such actions; and, (3) incremental external costs directly related to outreach and education activities informing customers of payment options, programs available to assist customers during this period, and customers' rights and protections. Each utility seeking deferral authority must make a filing, and identify the actual incremental costs resulting from the voluntary actions identified in this Order. Due to the timing of account collections and write offs to revenues billed during this specified period, we expect that the utilities will not be able to make such a filing until at least the fall of 2009.

<u>The Commission orders</u>:

1. Subject to the conditions set forth in this Order, each utility that undertook one or more voluntary measures, identified in the body of this order for the 2008-2009 winter heating season, may make one request for deferral of incremental costs resulting from those measures, as delineated in the body of this Order.

2. Recognizing that the monetary amounts for which deferral would be sought are not yet known, and that each utility utilizes different time periods before uncollectibles are written off, each utility making such a deferral request shall do so at the earliest possible date once such expenses are quantifiable.

3. This proceeding is continued.

By the Commission,

(SIGNED) JACLYN A. BRILLING
Secretary

ANALYSIS OF COMMENTS

Central Hudson

A. Background:

Central Hudson reports that its current Rate Plan established fixed electric and gas rate allowances of .51% electric and .92% gas for delivery and commodity uncollectible expense, based on historical bad debt experience, through December 2005. Given the current economic conditions, however, the Company believes there is still significant financial exposure to utilities in that commodity and delivery collections may be insufficient to cover actual bad debt write-offs.

For instance, the Company states that it has seen a 28% increase over December 2007 in the number of accounts with balances more than 120 days in arrears and a 64% increase over December 2006. It continues, noting that the dollar amount of balances over 120 days old increased by $2.4 million, or 58%, during 2008. The Company reports that during 2008, it wrote-off over $6.6 million of its accounts receivable balances, which exceeded the amount it recovered through rates by over $1.8 million. The Company expects that, applying the current uncollectible allowances, the Company's 2009 budgeted revenue will result in a shortfall of $2.2 million. In its current rate case proceeding, the Company is proposing to continue similar treatment of the uncollectible expense allowance factors using updated percentages, but with deferral treatment on the variance between the actual bad debt experience and what is recovered in rates.

B. Voluntary Actions Taken by Central Hudson:

The Company reports that it is accepting all HEAP payments and ensures that customers receive all benefits to which they are entitled. Central Hudson states that it provides special protections for customer accounts with an identification code of elderly, blind or disabled, and refrains from locking accounts during periods of extreme weather. Central Hudson states that it has continued its annual winter outreach plan, informing customers about payment options, programs and services available for assistance. The Company states that it has implemented its annual Essential Service Apparatus Program, installing load limiters that ensure sufficient electricity for basic heating, lighting, refrigeration and cooking needs in lieu of locking residential accounts for non-payment. Central Hudson reports that it is utilizing unexpended funds from the Enhanced Powerful Opportunity Program (EPOP) to offer a supplemental benefit of $200 or $300 to eligible low-income customers. The Company notes that accepting Staff's recommendations each year has had a negative impact on its accounts receivable and increased its bad debt expense.

C. Central Hudson's Comments on the Commission's Proposal:

Central Hudson seeks clarification of three issues. First, the Company asks what dates define the 2008-2009 winter heating season, the Company believes this to mean November 1, 2008 – March 31, 2009. Second, the Company asks whether the Order is considering (1) actual net bad debt write-offs during the specified time frame, or (2) the actual net bad debt write-offs, occurring later, but resulting from customer usage during this time frame. Third, Central Hudson is unclear as to how exactly to determine if the uncollectible expense is specifically related to the winter period. The Company notes that many customers are carrying arrearages into the winter months from the summer months, and seeks these clarifications to help in its current consideration of a petition for ordinary deferral authority for calendar year 2008 bad debt expense.

The Company can demonstrate that uncollectible expense recoveries allowed under the current rate plan have not been adequate to recover the actual net bad debt. During 2008, the Company estimates a shortfall of more than $1.8 million. Commission authorization to provide deferral treatment for future recovery of that shortfall would provide the necessary relief.

Central Hudson maintains that relief in the form of deferral treatment is warranted. Central Hudson maintains that, while the Order specifies a materiality threshold of 5% of net income, the Commission has typically applied a 3-5% of net income materiality threshold.

Without further clarification, the Company believes it is premature to address specific rate mechanisms. Central Hudson states that it has available electric deferred credit balances that could be used to record the deferrals against, and suggests that a special interim delivery rate surcharge mechanisms could be employed to recover additional uncollectible expense, above what is currently provided for in rates.

Con Edison and O&R

A. Background:

Con Edison reports that its 2008 uncollectible expense is $7 million more than its rate allowance. O&R reports that its 2008 uncollectible expense is $100,000 more than its rate allowance of $3.1 million. Con Edison states that its residential 60-day arrears increased by 20%, or $39 million, representing 11%, or 43,000, more customers in arrears between December 2007 and December 2008. In that same interval, O&R reports that its residential 60 day arrears increased 36%, or $1.7 million, representing 20%, or 2,600, more customers in arrears. Between 2007 and 2008, Con Edison reports experiencing a 20% increase between 2007 and 2008 in the number of payment agreements, representing an increase of 34%, or $18.9 million, at risk under these agreements. Similarly, O&R reports an increase of 36% in the volume of payment agreements, and an increase of 41%, or $2 million, in the amount at risk.

Con Edison and O&R report that they are attempting to mitigate these increases through a number of measures, including adding staff to their bill collection department to maintain continued customer payment of utility bills. The Companies report that efforts to mitigate the rise in uncollectibles have also resulted in increased expenses. The Companies state that they are working hard to balance decreasing uncollectibles while aiding customers in need, but increasing number of customers need support.

B. Voluntary and Required Actions Taken by Con Edison and O&R:

Con Edison and O&R state that they are accepting all HEAP payments, including accepting HEAP payments as a down payment for a Deferred

Payment Agreement (DPA), providing customers with the opportunity to enter into DPAs and referring customers to Social Services for additional assistance. The Companies further state that they are not terminating service to elderly, blind or disabled customers, and to all residential customers during extreme cold weather periods. The Companies state that refraining from residential terminations has benefited many customers and that the Companies' efforts will result in additional costs which cannot yet be estimated.

C. Comments on the Commission's Proposal:

The Companies state that the five conditions described in the Order are similar to, if not more stringent than, those traditionally imposed upon a utility filing a petition to defer extraordinary expenses. For instance, the Companies state that the proposed requirements not only impose additional conditions for deferral, but the Companies argue, requiring the utility to prove that it balanced the need to aid vulnerable customers while lowering the level of arrears and uncollectibles is both difficult to achieve and prove. The Companies state that a decrease in the level of service terminations will lead to an increase in the amount of arrearages, and ultimately uncollectibles. The Companies believe that the Order does not provide a clear rationale for the added requirements.

The Order limits the recovery of uncollectible costs to a specified time frame, the winter period 2008-2009. The Companies argue that this ignores the fact that uncollectibles began rising prior to winter 2008-2009. They continue, stating that the Order does not provide sufficient relief for these continuing costs after that time period, nor does it address the likelihood that any uncollectible write-offs for winter 2008-2009 will not actually occur until late summer 2009 at the earliest. The Companies report that any prediction of the amount of uncollectibles for winter 2008-2009 is premature until a much later point in time. The Companies believe that providing utilities with currently available relief, without relaxing the traditional tests, does not address the disincentive for utilities to take actions to aid customers that are likely to increase their uncollectible expenses.

D. Con Edison and O&R's Alternative Proposals:

Con Edison and O&R argue that the Commission should implement accounting mechanisms that will provide utilities with assured relief for the increase in uncollectible costs. They suggest that this should be done through an adjustment mechanism or annual reconciliation of uncollectible costs compared to the amount currently allowed in rates. The Companies state that these mechanisms would not limit the recovery of these costs to the 2008-2009 winter period as suggested by the Commission. They believe that a monthly adjustment mechanism would permit real time recovery of incremental costs for uncollectibles above the level included in rates. They explain that the annual reconciliation mechanism would compare the level allowed in rates to actual expenditures for uncollectibles as well as costs associated with uncollectibles. The Companies argue that these mechanisms would ensure full and timely recovery of incremental costs associated with utility initiatives and proactive customer-focused efforts, removing any disincentives utilities may have to increase uncollectible expenses. Additionally, the Companies argue that the Commission should consider establishing an incentive program, such as targets and rewards for achieving specific participation levels in payment programs.

Corning

A. Background:

Corning reports that it is a small utility whose revenues can be largely affected by swings in arrears and uncollectibles. Corning states that employment changes at the few major employers in the area, such as layoffs, have a ripple effect on arrearages and uncollectibles as these changes directly impact their utility customers. Additionally, Corning reports that it has substantial financial exposure because its delivery and commodity uncollectible expenses are bundled; it recovers both through a fixed base rate cost estimate.

Corning reports filing deferral petitions in the past to deal with the unpredictable nature of uncollectibles. Corning states that the deferral process tends to be without a regular schedule or process designed to yield results within a certain period of time and can be improved substantially by utilizing a more standard, uniform approach. Corning is in the midst of a gas rate case (08-G-1137), and expects that its comments here will be largely transferable to the rate case. Corning anticipates that the "final" mechanism for addressing 2008-09 winter period arrearages and uncollectible expense will be formulated in the rate case, based on the results of this proceeding.

B. <u>Corning's comments on the Commission's Proposal:</u>

Corning argues that the conditions proposed in the Order need to be modified or eliminated, or it and other utilities will be in a worse position under the new approach than if the current approach were continued. Corning states that the first condition, taking actions to minimize service terminations while simultaneously minimizing uncollectible expenses, imposes an evidentiary burden on the utility to demonstrate that it is achieving a perfect balance between avoiding shut-offs and collecting what is due. Corning continues, arguing that demonstrating this each time deferral of uncollectible expenses is requested, when little is likely to change from year to year, seems to be an inefficient use of resources and would be more appropriately conducted in the context of an audit or in a rate proceeding.

Corning believes the second condition, that any recovery authorized in this proceeding not duplicate current rate treatment, represents a valid concern which would be easily demonstrated by showing the computation of the overage versus the amount currently allowed in rates. Similarly, Corning believes the fourth condition, requiring that the Company not be in an overearnings position after any proposed deferral or additional relief, is reasonable and consistent with Commission practice.

Corning understands the third condition to mean that the utility must show that it deserves to be protected from a certain amount of risk if a proposal for deferral of uncollectible expense is to be entertained. Corning believes this to be a vague requirement that would be either impossible to satisfy or conducive to mischief in its application. Furthermore, Corning believes the third condition is unnecessary, as there are no rate plans that eliminate all risk or even reduce it substantially. Corning remains subject to a number of risks that exceed the risk inherent in uncollectible expense. Corning states that the greatest risk, perhaps, is customer usage, particularly for large industrial, commercial and institutional customers. If there is a specific concern about the need for protection from the risk of inaccurate allowances for uncollectible expense, Corning suggests that issue should be raised in response to a company's individual filing.

Corning believes the fifth condition, imposing a materiality threshold of 5%, is unnecessarily restrictive. Corning argues that it is at the upper end of the 3-5% range that the Commission recently cited, and involves "threshold creep" inconsistent with what Corning states was the Commission's definitive discussion, less than one year ago, of the materiality threshold for deferrals in Case 07-G-1411. Corning would prefer to see the threshold set at 1% of net income after taxes, but in the interest of consistency and predictability, the threshold should be stated as no higher than 3%. Corning believes that this is warranted as uncollectible expenses are an especially uncontrollable expense, and no matter how rigorously the Company has attempted to project arrearages and uncollectible expense, these costs usually exceed the projected amounts.

C. Alternative Proposal in Corning's Current Rate Case:

In Corning's current rate case, it reports proposing a deferral and recovery mechanism that, beginning with the first year in which the mechanism takes effect and continuing each year thereafter, compares the actual uncollectible expense, both delivery and commodity, for the twelve months ending August 31 with the amount allowed in rates. If the actual amount exceeds the allowed amount by more than 1% of net income on an after-tax basis, Corning proposes to recover the entire amount of the overage. Corning further proposes unbundling the delivery and commodity portions of the uncollectible expense. Corning proposes including the deferred commodity portion in its annual Gas Adjustment Clause reconciliation, and recovering the deferred delivery portion in its next rate proceeding. Corning also seeks a return on working capital corresponding to the amount deferred for the commodity and delivery portions until full recovery. Corning believes that by using time periods consistent with the current GAC reconciliation mechanism, its proposal provides a regular schedule for addressing uncollectible expense issues, as well as a degree of efficiency by combining filings. Corning believes recovery of uncollectible expenses incurred over a one-year period should occur over a like period, to avoid a build-up of expenses requiring recovery. However, it continues, providing for delayed commencement of recovery of deferred delivery uncollectible expense serves the interest of minimizing bill impacts by spreading the recovery over more than one year.

National Grid

A. Background:

National Grid believes that special rate or deferral mechanisms are warranted as it reports the percentage of accounts more than 60 days in arrears as higher by 4.49% to 17.43% in November 2008, compared to November 2007.[1] In an effort to minimize uncollectible expense, the Companies state that they have pledged shareholder contributions to the Care & Share and Neighborhood Fuel Funds, implemented a telephone and direct mail campaign to encourage eligible customers to apply for HEAP, and implemented a customer management protocol, which monitors customer payment patterns and intervenes before arrears become overwhelming. National Grid is also increasing collections calls and field collection activity. Notwithstanding these efforts, the Companies' arrearages continue to rise.

B. Voluntary and Required Actions Taken by National Grid:

National Grid states that its constituent utilities (the Companies) are accepting regular and/or emergency HEAP grants and offering financially stressed customers fair and reasonable deferred payment agreements. The Companies report refraining from scheduling service terminations on days when the weather

[1] National Grid's Joint Comments state "Comparing November 2008 to November 2007, the Companies are seeing accounts in more than 60 day arrears higher by from 4.49% to 17.43%." "From" was treated as a typographical error.

is forecast to be at or below 32 degrees, and continuing voluntary moratoriums on winter terminations for the elderly, blind and disabled.

The Companies report expanding outreach and education programs, which provide information on energy saving tips, billing options, energy efficiency programs and programs targeted to low-income customers. Downstate, National Grid NY & LI support "On Track" programs and upstate NMPC administers the "AffordAbility" program. These programs educate customers on arrears management and provides for certain arrears forgiveness. The Companies have also provided training and tools to their customer service representatives to prepare them for customer high-bill inquiry conversations and have specially trained representatives to assist those customers that are the most vulnerable.

C. <u>National Grid's Comments on the Commission's Proposal:</u>

National Grid notes that the Order appears to limit proposed deferrals to the current heating season, yet it is difficult even for the experts to predict when the economy will improve. They argue continuation of one or more of the deferral mechanisms beyond the current heating season may be warranted.

The Companies believe the materiality condition is too restrictive, arguing that the Commission should be open to tailoring the relief and the conditions for recovery based on the specific recovery mechanism and circumstances of each utility. They state that incremental costs of items such as commodity-related uncollectible expense and working capital, the uncollectible expense rate and the cost of bad debt mitigation measures may not rise to the 5% materiality threshold, which National Grid believes is at the high end of the Commission's precedents regarding other deferrals. National Grid states that, in the aggregate, these increased costs may detrimentally affect the Companies' reasonable access to capital markets. National Grid suggests that, if the Commission decides to hold to this materiality threshold, it should permit the aggregation of the incremental costs driven by these factors.

D. National Grid's Alternative Proposals:

The Companies state that they have engaged in bad debt mitigation efforts, which are over and above the Companies' rate allowances for collection costs by nearly $8 million in the first year. The Companies believe these accelerated efforts will redound to the benefit of the Companies' customers, and therefore urge the Commission to allow recovery of these incremental costs through the same rate mechanism as the incremental uncollectible expense.

National Grid states that none of its constituent companies' rate plans address increased working capital needs associated with higher customer arrearages. National Grid explains that National Grid NY and National Grid LI's rate plans provide relief for increased working capital requirements resulting from higher gas costs, but that NMPC currently operates under gas and electric plans that do not adjust to increased purchased gas/electricity working capital requirements as a result of higher gas or electricity costs. National Grid proposes that NMPC be permitted to defer incremental, commodity-related working capital costs for its gas business until new gas rates go into effect, and for its electric business until such time the Commission determines. Regarding National Grid NY, National Grid LI and NMPC gas, National Grid suggests that these costs be recovered through their GAC/MCG statements in the normal course of reconciliation, subject to amortization over two reconciliation periods as necessary to mitigate bill impacts. National Grid further suggests that NMPC electric recover these costs through the CTC reset.

National Grid states that each of its utilities is subject to fixed uncollectible expense rates that were determined prior to the current economic turmoil. National Grid argues that NMPC is at a substantially higher risk in that it still recovers commodity-related uncollectible expenses through a fixed rate allowance. National Grid proposes that the Companies be permitted to defer uncollectible expense in excess of the uncollectible expense provided for in their respective rate plans. National Grid suggests that NMPC electric recover such costs through its CTC reset while NMPC gas, National Grid NY and National Grid

LI recover these costs through a mechanism that applies on an equitable basis to the Companies' sales and transportation customers, such as a delivery rate surcharge. National Grid explains that it is sensitive to concerns regarding bill impacts, but recommends that the amortization period for this and other proposed deferrals be no more than two years.

NFG

NFG limited its comments to a discussion of the Commission's proposed criteria. NFG maintains that, while the Commission fairly acknowledges that utilities should be recognized for adopting the voluntary measures sought by Staff, the Order improperly denies recovery of costs arising from those measures unless the utilities can show they are "materially" harmed. NFG understands that utilities cannot expect to be made immune to financial downturns, thus NFG states that it does not oppose the application of the traditional threshold standard for deferral of uncollectible expense increases due to high natural gas prices, a weakened economy, and uncertain financial markets. However, NFG argues, this standard should not apply to requests for deferral of higher costs arising from the voluntary measures the utilities adopted at Staff's request. NFG states that in discussions leading to the Order, while staff did not state that recovery of higher uncollectible costs would be guaranteed, recovery was not ruled out. NFG explains that it reasonably believed it would be protected from such incremental costs out of a sense of fair play.

NFG argues that although the Order seeks rate mechanisms to assist utilities who undertook the requested voluntary measures, the conditions proposed in the Order amount to the deferral authority ordinarily available to utilities. NFG explains that although it is too early to estimate an increase attributable solely to the measures, an increase is inevitable, and, absent deferral authority, some amount of uncollectible expense will be absorbed by shareholders. NFG does not believe the increase in uncollectible accounts expense will rise to the 5% materiality threshold proposed in the order. NFG claims that setting a 5% threshold will likely have the effect of penalizing utilities for cooperating with

Staff and the Commission. NFG states that deferral of uncollectible accounts expense not resulting from the voluntary measures should be granted upon a showing by the utility that meets the standard conditions for deferred expense accounting. NFG suggests that for costs incurred from the voluntary measures, the Commission adopt a procedure summarily authorizing deferral, subject to Staff's review and audit in a subsequent rate (or other suitable) proceeding.

<u>NYSEG and RG&E</u>

A. <u>Background:</u>

NYSEG and RG&E report experiencing a continued increase in uncollectible expense. Comparing net uncollectible expense in calendar year 2007 and 2008, RG&E reports a 70% increase in net uncollectible expense, while NYSEG reports a 10% increase. The Companies also claim that accounts with arrears greater than 120 days are increasing at an alarming rate, which has created a serious cash flow burden. The Companies state that despite their efforts to control uncollectible amounts, those amounts continue to increase, and are exacerbated by the voluntary actions the Companies have taken to benefit customers. The Companies maintain that the increase in uncollectible amounts continues to negatively impact earnings, cash flow and financial flexibility.

Currently, the Companies recover delivery uncollectible expense through a fixed amount built into delivery rates, based on four or five year averages of historical net write-offs. The Companies have commodity uncollectible expense recovery mechanisms, which either allow for an adjustment (electric businesses), or an adjustment and reconciliation (gas businesses). Additionally, the Companies report that they purchase accounts receivable from Energy Service Companies at a discount to compensate for uncollectible costs. The Companies state that both their discounts are adjusted annually, NYSEG's based on one year historical experience, including a .15% adder to compensate for risks of increasing uncollectible costs, and RG&E's based on a five year rolling average. The Companies maintain that the amount allowed for uncollectible expense in 2008 rates through these mechanisms does not come close to accommodating their actual expense. The companies explain that they lack true-ups or reconciliation mechanisms for the difference between delivery uncollectible rate allowances and actual costs, and that the methodologies in place to adjust supply uncollectible expenses are based on historical assumptions that are no longer valid given the current economic crisis.

B. <u>Voluntary and Required Actions Taken by NYSEG and RG&E:</u>

The Companies report that they are accepting all HEAP payments and will consider using HEAP as a down payment for customers requiring a deferred payment agreement. The Companies state that they refrain from service terminations when the temperature is below 20 degrees, take into account forecasted storms, and have extended additional protections to elderly, blind and disabled customers. The Companies report training collections personnel regarding these measures.

The Companies state that they are offering payment agreements to financially stressed customers, expanding bill payment options, and offering incentive opportunities for customers who enroll in budget billing and/or electronic funds transfer. The Companies report developing a Matching Incentive Payment Program, providing grants and matching funds to eligible customers facing disconnection. The Companies have also increased funding for Project Share and RG&E/Red Cross Heating Funds.

The Companies report engaging in outreach and education, providing information on available bill payment options, using energy wisely, commodity prices, managing heating bills, budget billing and other financial coping strategies. The Companies report placing door hangers to remind customers to pay their bills, and making calls to customers who are behind on their bills and in danger of service termination.

C. <u>NYSEG and RG&E's Comments on the Commission's Proposal:</u>

The Companies opine that the materiality threshold of 5% of net income on an after-tax basis suggested in the Order is too high. The Companies suggest the Commission instead adopt the 0.05% of common equity standard, found in 16 NYCRR section 48.1, to allow for recovery of additional uncollectible expense. The Companies further note that their proposals, outlined below, would void the need for a materiality threshold.

D. NYSEG and RG&E's Alternative Proposal:

The Companies suggest that they be allowed a reconciliation of anticipated and actual uncollectible expense. They maintain that their proposals are warranted because their current rate plans were developed in a different economic climate and neither they nor the Commission were able to anticipate the current economic crisis. They state that their proposals will not duplicate recovery of costs nor cause the Companies to be in an overearnings situation.

The Companies propose that for electric and gas delivery service, uncollectible expense embedded in the existing delivery rates be reconciled to actual uncollectible expense experienced by the Companies for October 1, 2008 – May 31, 2009 via a fully symmetrical true-up. Noting the lag between provision of service and an account becoming uncollectible, the Companies suggest the true-up calculation be based on a detailed filing submitted by the Companies in September 2009. The Companies suggest the true-up would be accomplished through a credit or surcharge immediately following the September 2009 filing.

For electric supply service, the Companies propose a reconciliation from projected uncollectible expense to actual supply-related uncollectible expense. The Companies suggest that upon making their proposed September 2009 filing, they be authorized to recover the reconciliation amount from supply customers via a surcharge mechanism, as part of the overall reset of the supply cost recovery mechanisms or by adding to or subtracting from the Public Benefit Adjustment balances created as part of the recent merger proceeding.

Multiple Intervenors

MI states that it does not advocate any positions on most of the issues identified in the Order Instituting Proceeding. MI notes that it does not oppose the adoption of temporary measures to protect the financial integrity of utilities and ease financial burdens on customers. However, MI urges the Commission to refrain from creating, or exacerbating, interclass subsidies by ensuring that any allowed deferrals be calculated, and recovered, in a manner specific to customer type or service classification.

According to MI, historically, electric and gas utilities experience much lower percentages of uncollectible expense and arrearages in serving large non-residential customers than in serving residential and small non-residential customers. MI asserts that this difference impacts the cost to serve various customer classes, and thus rate treatment for uncollectible expense and arrearages typically differs between customer type or service classification. MI argues that large non-residential customers should not be forced to pay for any increased uncollectible expense associated with residential or small non-residential customers, nor should such customers be burdened by any increased uncollectible expense associated with large non-residential customers.